

LOCAL PLANNING AGENCY

APRIL 11, 2007

1. ROLL CALL

The meeting was called to order at 8:40 p.m. Agency members present were Chair Mike Bender, Vice-Chair Scott McLaughlin, Philip Busey, John Stevens and Mimi Turin. Also present were Attorney DJ Doody, Acting Planning and Zoning Manager Marcie Nolan, Planner Ingrid Allen, and Board Secretary Janet Gale recording the meeting.

2. APPROVAL OF MINUTES: February 14, 2007 March 14, 2007

Chair Bender asked if there was a motion of approval for the minutes of February 14, 2007.

Mr. Stevens so moved, seconded by Ms. Turin. In a voice vote, all voted in favor. **(Motion carried 5-0)**

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3. PUBLIC HEARING

Text Amendment

- 3.1 AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE II, SECTION 12-24, STATEMENT OF PURPOSE AND INTENT OF ZONING DISTRICTS; ARTICLE III, SECTION 12-32, TABLE OF PERMITTED USES; SECTION 12-33 GENERAL REGULATIONS; SECTION 12-34, DETAILED USE REGULATIONS – STANDARDS ENUMERATED; ARTICLE IV, SECTION 12-54, NON-RESIDENTIAL PERFORMANCE STANDARD – COMMERCIAL CONSERVATION; ARTICLE V, SECTION 12-83, COMMERCIAL CONSERVATION STANDARDS; ARTICLE VI, SECTION 12-107, LANDSCAPING STANDARDS FOR LOTS AND SITES; ARTICLE VII, SECTION 12-208, REQUIREMENTS FOR OFF STREET PARKING; ARTICLE XII, SECTION 12-375, MASTER PLANNED DEVELOPMENTS; AND ARTICLE XIV, SECTION 12-503, DEFINITIONS; AMENDING RECYCLING, SCRAP METAL PROCESSING, AND AUTOMOBILE WRECKING YARDS AS EXISTING LEGAL USES IN THE M-3 ZONING DISTRICT WHEN THE UNDERLYING LAND USE CLASSIFICATION IS INDUSTRIAL AND THE EXISTING USE IS LEGALLY PERMITTED; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB(TXT) 4-1-06, TOWN OF DAVIE) **(tabled from March 14, 2007)**

Ms. Gale read the ordinance by title. Ms. Allen read the planning report and pointed out the parts in the text where staff and Mr. Danielle disagreed. Staff had recommended denial based on those issues.

Mr. Busey asked if there were ways to monitor or measure odors, smoke and gas in order to know whether or not an industry was exceeding set standards and creating a nuisance. Ms. Nolan advised that the usual way a nuisance worked was by a complaint being made by an adjacent property owner. She would have to do further research of Code Compliance to find out if there was a set criteria in order to know if an industry exceeded it.

Mr. Busey asked if it was reasonable to expect landscaping inside the perimeter walls of a junkyard. Ms. Nolan explained that landscaping was required for all types of site development as it related to pervious, water quality and aesthetics. Although the Code was developed to encourage consistency, on a case-by-case basis the requirement could be mitigated to make the most effective use of the applicant's landscaping dollars.

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Ms. Turin asked that it be clarified as to which ordinance was being proposed and that there were five issues that could not be agreed upon.

Mr. Stevens was curious about how many more pieces of property this amendment would potentially affect in that they also may want to install a recycling, engineering or importing facility as permitted uses. Ms. Nolan answered that the way this ordinance was structured, only existing junkyards could acquire a legal use. She added that all the existing junkyards were owned by Mr. Danielle with the exception of one which was located on the west side of Town.

Mr. Busey asked how the proposed change would bring debris and construction material onto the sites which had been staff's number one objection. Ms. Nolan explained that currently, the junkyards existing uses were viewed as automobile recycling and salvage yards. By expanding the definition, more uses would be allowed into that category to include construction and demolition debris, rubber, plastic, copper, brass, aluminum, iron, steel, and other old or scrap organic, ferrous or nonferrous materials.

Mr. Poole, representing Mr. Danielle, provided an overview of the proposal which included historical information regarding the annexation of Hacienda Village and the conditions for preserving its zoning. He provided maps to better demonstrate his point. Mr. Poole also spoke of the expansion of the business and how it evolved into a world trade recycling facility. He spoke of the regulatory agencies involved in overseeing the products and inspecting the facilities. For many years there had not been a problem with having this non-conforming permitted use. Now that the operations at these facilities needed to be updated and Mr. Danielle had tried to obtain building permits, this use was not allowed in the Town's zoning Code. This amendment was devised to create a category that would make recycling use a conforming use to bring it into compliance with the Code as well as enable him to expand and sell his business with a legal, conforming use.

Mr. Poole went over the proposed changes to the ordinance and explained from his perspective why each was made. The following recommendation was made by Mr. Stevens and accepted by Mr. Poole. It was in the proposed ordinance, Subsection (U) NUISANCES: (3) ..., activities and management practices ~~conform to generally accepted Recycling, Scrap Metal Processing and Automobile Wrecking Yard business practices, the operation does not emit noxious odors, is in conformance~~ otherwise conforming with applicable environmental regulations, and otherwise conforms fully conforming with the nuisance standards as defined by the Town code.

Mr. Poole proposed to add a paragraph 'f.' to Section 12-33 (X) (1) OUTDOOR ACTIVITIES RESTRICTED: 'a.' through 'e.' Paragraph 'f.' would read as follows: Recycling, Scrap Metal Processing and Automobile Wrecking Yard operations & activities occurring within the perimeter walls. There were no objections.

Mr. Poole explained that when the property had been annexed into the Town, there was not a 20% open space requirement and the sites were developed without the concept. He, therefore, requested that in an attempt to fulfill that requirement, that whatever could not be achieved outside the perimeter walls, be mitigated to be planted elsewhere on the site or areas designated by the Town. The Agency had no objections.

Returning to staff's first comment regarding the materials to be allowed in junk recycling, Mr. Poole advised that most of the items listed were already being processed and he was not sure what staff's concerns had been. The uses Mr. Danielle proposed were the uses that presently were going on.

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For SECTION 9. Article XI, Development Review Procedures, Mr. Poole proposed that the properties be allowed to come into compliance incrementally by adding Sec. 12-349 to read as follows: The review of applications for site plans, master plans, and building permits for activities within Recycling, Scrap Metal Processing and Automobile Wrecking Yards that were developed as legal conforming uses under the Hacienda Village or Broward County codes shall be limited in area to that part of the applicant's property that is the subject of the application. The proposed development within the area that is the subject of an application shall conform to the Town code in effect at the time of the application. As long as the use of a property remains a Recycling, Scrap Metal Processing and Automobile Wrecking Yard, applications for building permits to build a new structure or modify an existing structure, or for site plan approval to develop or redevelop a portion of the applicant's property, shall not be subject to the master development plan requirements of Section 12-375 of the Town code.

There was no discussion regarding this proposed revision.

The next item Mr. Poole took issue with was to provide soil testing/monitoring for the subject site by installing wells at 100 feet grid intervals. He had pointed out to the Town Engineer Larry Peters that testing for pollution had been addressed by the following language in the Code: (HH) RECYCLING, SCRAP METAL PROCESSING AND AUTOMOBILE WRECKING YARDS: (4) Site Environmental Monitoring: The site must be provided with environmental monitoring facilities as required by Broward County, the Florida Department of Environmental Protection, and the U.S. EPA. and (5) All toxic chemicals, automobile fluids and petroleum waste must be safely contained and properly disposed. Mr. Poole indicated that Mr. Peters was satisfied with the aforementioned provisions and stated that he would contact Mr. Poole if there was a problem.

Mr. Busey stated that he had no problem with the processing of junk; however, he would not want to see construction debris stored for long periods of time. Mr. Poole responded that the nature of the business was to move inventory and not store it. There was no monetary incentive to store the materials. He described the process of recycling concrete and indicated that the concrete could and had been used for fill by I-595.

Mr. Busey had noticed from the aerials that there were various open space areas and he wondered what the difficulty was in meeting the 20% open space requirement within the perimeter walls. Mr. Poole explained that the open areas were "operational areas" for equipment to move the inventory from one place to another on the property.

To alleviate Mr. Busey's point about not wanting to see this become a dump instead of a recycling facility, Mr. Stevens suggested that on page five of the ordinance, to add onto the last sentence of (HH) RECYCLING, SCRAP METAL PROCESSING AND AUTOMOBILE WRECKING YARDS: ...including open storage of equipment, inventory and materials which shall not be deemed to include the permanent storage of said inventory or material. Mr. Poole indicated he did not have a problem with the additional wording.

Vice-Chair McLaughlin asked if there was any type facility for on-site drainage or retention. Jay Evans, also representing Mr. Danielle, advised that the existing drainage on the site had not gone through the local drainage district for a formal approval; however, all new redevelopment would be approved and would be in conformance with the Central Broward Water Control District and within the Town's Code.

Chair Bender asked if anyone wished to speak on this item.

Anthony Lapour indicated that he represented the New Town Commerce Center West Association, Inc., which was adjacent and west of Mr. Danielle's site. He advised that his clients had an issue with a minor portion of the proposed text regarding Mr. Danielle's operations. It had to deal with the construction and demolition debris which involved the grinding of concrete into a fine powder which had created an environmental, health and tangible physical hazard to his clients.

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Mr. Lapour advised of the legal actions he was in the process of pursuing in order to have this activity stopped. His concern was that by expanding the definitions of a recycling facility to include construction and demolition debris, it would allow for the grinding of concrete thereby producing the fine powder which emanated from the site. Mr. Stevens indicated that the production of the fine dust would be considered a nuisance and should be dealt with in that manner; however, he could not see how expanding the definition of uses would make a difference. Mr. Lapour responded that it could be defended as a permitted use and even if it stopped today, it could be resurrected in the future. He was also concerned with the hauling traffic it created on SW 47 Avenue. Mr. Lapour stated that his clients had no complaints with the operations for many years and that this was a new component with which they had their first issue. A lengthy discussion ensued regarding the creation of a nuisance and the processing of concrete for recyclable purposes.

Michael Manis, representing Mr. Danielle, responded to Mr. Lapour's concerns noting that the concrete grinding was a temporary condition that would stop by the end of May. He advised of an incident brought to his attention by Code Compliance and which had been resolved immediately. Mr. Manis explained the differences between crushing of concrete in order to remove the rebar and the grinding of concrete into a powder for fill. He pointed out that there were two other facilities, Davie Concrete and Continental Concrete, which were doing the same thing. Mr. Manis concluded that to allege that the dust was coming from Mr. Danielle's premises was not necessarily supported by the evidence as seen here.

As there were no other speakers, the public hearing was closed.

Vice-Chair McLaughlin was comfortable with the recommendations that Mr. Stevens had suggested; however, he noted that he would like to see more landscaping in order to screen the public's view from the operation.

Mr. Busey was supportive of having an active industrial area involved in recycling; however, he shared a couple of the concerns expressed by staff. Due to the consolidation of several junkyards, he believed that the function had expanded over time. The idea of imposing limits was not without merit and Mr. Busey hoped that Mr. Danielle would agree not expand too far from the concept of auto parts. Having such a large spread area, Mr. Busey was concerned that there may be the tendency to leave things sit there longer than necessary. He was uncomfortable with the necessity of a Code enforcement complaint being the only means to correct a problem.

Mr. Stevens made a motion, seconded by Ms. Turin, to approve subject to the amendments previously set forth which were: 1) an amendment to Subsection (U), page 4, four lines up from the bottom of the page, it should read "...practices otherwise conform to ~~generally accepted Recycling, Scrap Metal Processing and Automobile Wrecking Yard business practices, the operation does not emit noxious odors, is in conformance~~ with all applicable environmental regulations, and otherwise conforms with the nuisance standards as defined by the Town code."; and 2) page 5, with (HH), add to the end of the last sentence: "...which shall not be deemed to include the permanent storage of said inventory or material."

Mr. Busey was not comfortable with "concrete crushing" being denoted as an acceptable use and asked if the motion could be amended and if Mr. Poole would accept the removal of "concrete crushing" as an accepted use. Mr. Poole responded that concrete grinding was the objectionable use which created the problems; however, concrete crushing was necessary. He indicated that Mr. Danielle would agree to specifying that "concrete grinding" would not be an acceptable use.

Ms. Turin agreed to remove her second and Mr. Stevens agreed to amend the motion. There was a brief discussion about the wording and where it should be placed.

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Mr. Stevens made a motion, seconded by Ms. Turin, to amend his motion by adding a third amendment in the same definition as (HH), after the previously added wording, add the sentence: “This definition shall not be deemed to include the reduction of concrete to a powder-like form.” In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair McLaughlin – yes; Mr. Busey – yes; Mr. Stevens – yes; Ms. Turin – yes. **(Motion carried 5-0)**

4. OLD BUSINESS

There was no old business discussed.

5. NEW BUSINESS

Ms. Nolan expressed her appreciation for having heard the presentation on the RAC Master Plan at the last meeting. She advised of some of the “fun” projects which the Agency would be reviewing in the future.

6. COMMENTS AND/OR SUGGESTIONS

There were no comments and/or suggestions made.

7. ADJOURNMENT

There being no further business and no objections, the meeting was adjourned at 10:12 p.m.

Date Approved: _____

Chair/Agency Member